

By: Zaffirini

S.B. No. 255

A BILL TO BE ENTITLED

AN ACT

1
2 relating to training for governmental entities and vendors,
3 including purchasing and contract management training; authorizing
4 fees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 656.047, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) A state agency that spends more than \$5,000 in a state
9 fiscal year for a training or education program for any individual
10 administrator or employee shall, not later than August 31 of that
11 year, submit to the Legislative Budget Board a report including:

12 (1) a list of the administrators and employees
13 participating in a training or education program and receiving
14 payment from the agency;

15 (2) the amount spent on each administrator or
16 employee; and

17 (3) the certification earned by each administrator or
18 employee through the training or education program.

19 SECTION 2. Subchapter C, Chapter 656, Government Code, is
20 amended by adding Section 656.054 to read as follows:

21 Sec. 656.054. PURCHASING AND CONTRACT MANAGEMENT TRAINING
22 BY COMPTROLLER. (a) The comptroller shall develop training
23 programs provided by the comptroller under this subchapter to meet
24 the needs of state agencies.

1 (b) Each year a state agency shall estimate the number of
2 employees requiring purchasing or contract management training and
3 report the anticipated training needs of the state agency to the
4 comptroller in the manner and form prescribed by the comptroller.

5 (c) On an annual basis the comptroller shall assess the
6 number of employees requiring purchasing or contract management
7 training and shall maintain a regular schedule of classes to
8 accommodate that number.

9 (d) The comptroller may use staff or contract with private
10 or public entities, including state agencies, to conduct the
11 training.

12 (e) The comptroller may assess a fee for a training program,
13 including continuing education and certification, in an amount
14 sufficient to recover the costs incurred by the comptroller to
15 provide the training program under this subchapter.

16 SECTION 3. Sections [2054.057](#), [2155.078](#), [2262.053](#), and
17 [2262.0535](#), Government Code, are transferred to Subchapter C,
18 Chapter [656](#), Government Code, redesignated as Sections 656.050,
19 656.051, 656.052, and 656.053, Government Code, respectively, and
20 amended to read as follows:

21 Sec. [656.050](#) [[2054.057](#)]. TRAINING IN CONTRACT NEGOTIATION
22 FOR PURCHASES OF INFORMATION RESOURCES TECHNOLOGIES. (a) In this
23 section:

24 (1) "Department" means the Department of Information
25 Resources.

26 (2) "Information resources technologies" has the
27 meaning assigned by Section [2054.003](#).

1 (a-1) The department, with the cooperation of the
2 comptroller and other appropriate state agencies, shall develop and
3 implement a program to train state agency personnel in effectively
4 negotiating contracts for the purchase of information resources
5 technologies.

6 (b) The department shall make the training available to
7 state agency personnel who are directly or indirectly involved in
8 contract negotiations, such as senior or operational management,
9 purchasers, users of the purchased technologies, and personnel with
10 relevant technical, legal, or financial knowledge. State agency
11 personnel directly involved in contract negotiations for the
12 purchase of information resources technologies shall complete the
13 training developed by the department.

14 (c) The department shall include in the training:

15 (1) information on developing a structured purchasing
16 method that meets an agency's needs;

17 (2) information drawn from the state's previous
18 procurement experience about what is or is not advantageous for the
19 state;

20 (3) the perspective of state agencies with oversight
21 responsibilities related to the state's procurement of information
22 resources technologies; ~~and~~

23 (4) information on how to use contracts entered into
24 by the department under Section 2157.068; and

25 (5) other information that the department considers
26 to be useful.

27 (d) The department may use its own staff or contract with

1 private entities or other state agencies to conduct the training.

2 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF
3 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The
4 comptroller [~~commission~~] shall establish and administer a system of
5 training, continuing education, and certification for state agency
6 purchasing personnel. The training and continuing education for
7 state agency purchasing personnel must include ethics training.
8 The comptroller [~~commission~~] may establish and offer appropriate
9 training to vendors on a cost recovery basis. The comptroller
10 [~~commission~~] may adopt rules to administer this section, including
11 rules relating to monitoring a certified purchaser's compliance
12 with the continuing education requirements of this section.

13 (b) [~~(a-1)~~] The training, continuing education, and
14 certification required under Subsection (a) must include:

15 (1) training on the selection of an appropriate
16 procurement method by project type; and

17 (2) training conducted by the Department of
18 Information Resources on purchasing technologies.

19 (c) [~~(b)~~] Notwithstanding Subsection (i) [~~(n)~~], all state
20 agency purchasing personnel, including agencies exempted from the
21 purchasing authority of the comptroller [~~commission~~], must receive
22 the training and continuing education to the extent required by
23 comptroller rule [~~of the commission~~]. The training and continuing
24 education must include ethics training. A state agency employee
25 who is required to receive the training may not participate in
26 purchases by the employing agency unless the employee has received
27 the required training or received equivalent training from a

1 national association recognized by the comptroller [~~commission~~].
2 The equivalent training may count, as provided by Subsection (g)
3 [~~(k)~~], toward the continuing education requirements.

4 [~~(c) The commission shall set and collect a fee from state~~
5 ~~agencies that employ purchasing personnel. The commission shall~~
6 ~~set the fee in an amount that recovers the commission's costs under~~
7 ~~this section.~~]

8 (d) The comptroller [~~commission~~] may provide training,
9 continuing education, and certification under this section to
10 purchasing personnel employed by a political subdivision or other
11 public entity of the state. Political subdivision purchasing
12 personnel may receive, but are not required to receive, the
13 training, continuing education, or certification provided under
14 this section. [~~The commission shall collect the fees described by~~
15 ~~Subsection (c) for training, education, or certification under this~~
16 ~~subsection.~~]

17 (e) [~~The commission may provide training and continuing~~
18 ~~education under this section using its own personnel or through~~
19 ~~contracts with private entities. The commission may also, by~~
20 ~~agreement with a public entity, use the services of persons~~
21 ~~employed by the public entity to provide training and continuing~~
22 ~~education under this section.~~]

23 [~~(f) The commission shall provide at least three levels of~~
24 ~~training under this section.~~]

25 [~~(g)~~] The [~~basic~~] training provided by the comptroller
26 [~~level~~] must include instruction in:

27 (1) [~~an introduction to~~] contract purchasing methods;

1 (2) [~~r~~] ethical issues affecting purchasing
2 decisions;
3 (3) negotiation methods;
4 (4) writing specifications;
5 (5) the criteria for determining which product or
6 service offers the best value for the state;
7 (6) developing evaluation criteria;
8 (7) formal and informal bidding methods;
9 (8) complex negotiations; [~~r~~] and
10 (9) [~~instruction in~~] any other processes and issues
11 that the comptroller [~~commission~~] considers appropriate for
12 [~~introductory~~] purchasing training.

13 (f) [~~(h)~~] ~~The second training level must include advanced~~
14 ~~instruction in formal and informal bidding methods, introduction to~~
15 ~~negotiation methods, instruction in writing specifications, and~~
16 ~~instruction in any other processes and issues that the commission~~
17 ~~considers appropriate for the second level of purchasing training.~~

18 [~~(i)~~] ~~The third training level must include an introduction~~
19 ~~to complex negotiations, instruction in the criteria for~~
20 ~~determining which product or service offers the best value for the~~
21 ~~state, and instruction in any other processes and issues that the~~
22 ~~commission considers appropriate for advanced purchasing training.~~

23 [~~(j)~~] The comptroller [~~commission~~] may prescribe the
24 circumstances under which a state agency may delegate to a
25 certified purchaser signature purchasing authority to approve
26 purchase orders.

27 (g) [~~(k)~~] The comptroller [~~commission~~] shall require a

1 reasonable number of hours of continuing education to maintain a
2 certification level. The comptroller [~~commission~~] may allow
3 attendance at equivalent certification training recognized by the
4 comptroller [~~commission~~] to count toward the required number of
5 hours. Maintenance of the certification level may be by yearly
6 renewal or another reasonable renewal period comparable to
7 nationally recognized certification requirements.

8 (h) [(1)] The comptroller by rule shall adopt minimum
9 requirements for each level of certification established for state
10 agency purchasing personnel by the comptroller under this section
11 [~~commission's prerequisites for receiving a level-two purchaser~~
12 ~~certification must include completion of the basic training level,~~
13 ~~passage of a written examination, and a minimum number of years of~~
14 ~~purchasing experience prescribed by the commission].~~

15 (i) [(m) ~~The commission's prerequisites for receiving a~~
16 ~~level-three purchaser certification must include completion of the~~
17 ~~second training level, passage of a written examination, and a~~
18 ~~minimum of three years of purchasing experience.~~

19 [(n)] This section does not apply to an institution to which
20 Section 51.9335, Education Code, applies or to an institution to
21 which Section 73.115, Education Code, applies.

22 Sec. 656.052 [~~2262.053~~]. TRAINING AND CERTIFICATION FOR
23 CONTRACT MANAGERS. (a) In this section:

24 (1) "Contract management guide" means the guide
25 developed under Section 2262.051.

26 (2) "Contract manager" has the meaning assigned by
27 Section 2262.001.

1 (a-1) In coordination with the Department of Information
2 Resources, state auditor, and Health and Human Services Commission,
3 the comptroller shall develop a training program for contract
4 managers.

5 (b) The training must provide the contract manager with
6 information regarding how to:

7 (1) fairly and objectively select and negotiate with
8 the most qualified contractor;

9 (2) establish prices that are cost-effective and that
10 reflect the cost of providing the service;

11 (3) include provisions in a contract that hold the
12 contractor accountable for results;

13 (4) monitor and enforce a contract;

14 (5) make payments consistent with the contract;

15 (6) comply with any requirements or goals contained in
16 the contract management guide; ~~and~~

17 (7) use and apply advanced sourcing strategies,
18 techniques, and tools;

19 (8) maintain required documentation for contracting
20 decisions, changes to a contract, and problems with a contract;

21 (9) create a risk evaluation and mitigation strategy;

22 (10) create a plan for potential problems with the
23 contract;

24 (11) develop an accurate and comprehensive statement
25 of work; and

26 (12) complete the contract and evaluate performance
27 under the contract.

1 (c) Each state agency shall ensure that the agency's
2 contract managers complete the training developed under this
3 section.

4 (d) The comptroller shall administer training under this
5 section and may assess a fee for the training in an amount
6 sufficient to recover the comptroller's costs under this section.

7 (e) The comptroller shall certify contract managers who
8 have completed the contract management training required under this
9 section.

10 (f) A state agency may develop qualified contract manager
11 training to supplement the training required under this section.
12 The comptroller may incorporate the training developed by the
13 agency into the training program under this section.

14 (g) The comptroller shall adapt the training required under
15 this section and administer an abbreviated training program meeting
16 the relevant training requirements under this section for state
17 agency employees, other than contract managers, with contract
18 management duties.

19 Sec. 656.053 [~~2262.0535~~]. TRAINING FOR GOVERNING BODIES.

20 (a) In this section, "state agency" has the meaning assigned by
21 Section 2056.001.

22 (a-1) The comptroller shall adapt the program developed
23 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
24 for training the members of the governing bodies of state agencies.
25 The training may be provided together with other required training
26 for members of state agency governing bodies.

27 (b) All members of the governing body of a state agency

1 shall complete at least one course of the training provided under
2 this section. This subsection does not apply to a state agency that
3 does not enter into any contracts.

4 (c) The comptroller may assess a fee for the training
5 provided under this section in an amount sufficient to recover the
6 comptroller's costs under this section.

7 SECTION 4. Section 2056.002(b), Government Code, is amended
8 to read as follows:

9 (b) The Legislative Budget Board and the division of the
10 governor's office having responsibility for budget and policy
11 [~~Governor's Office of Budget, Policy, and Planning~~] shall determine
12 the elements required to be included in each agency's strategic
13 plan. Unless modified by the Legislative Budget Board and the
14 division of the governor's office having responsibility for budget
15 and policy [~~Governor's Office of Budget, Policy, and Planning~~], and
16 except as provided by Subsection (c), a plan must include:

17 (1) a statement of the mission and goals of the state
18 agency;

19 (2) a description of the indicators developed under
20 this chapter and used to measure the output and outcome of the
21 agency;

22 (3) identification of the groups of people served by
23 the agency, including those having service priorities, or other
24 service measures established by law, and estimates of changes in
25 those groups expected during the term of the plan;

26 (4) an analysis of the use of the agency's resources to
27 meet the agency's needs, including future needs, and an estimate of

1 additional resources that may be necessary to meet future needs;

2 (5) an analysis of expected changes in the services
3 provided by the agency because of changes in state or federal law;

4 (6) a description of the means and strategies for
5 meeting the agency's needs, including future needs, and achieving
6 the goals established under Section 2056.006 for each area of state
7 government for which the agency provides services;

8 (7) a description of the capital improvement needs of
9 the agency during the term of the plan and a statement, if
10 appropriate, of the priority of those needs;

11 (8) identification of each geographic region of this
12 state, including the Texas-Louisiana border region and the
13 Texas-Mexico border region, served by the agency, and if
14 appropriate the agency's means and strategies for serving each
15 region;

16 (9) a description of the training of the agency's
17 contract managers under Section 656.052 [~~2262.053~~];

18 (10) an analysis of the agency's expected expenditures
19 that relate to federally owned or operated military installations
20 or facilities, or communities where a federally owned or operated
21 military installation or facility is located;

22 (11) an analysis of the strategic use of information
23 resources as provided by the instructions prepared under Section
24 2054.095; and

25 (12) other information that may be required.

26 SECTION 5. Section 2262.101(a), Government Code, is amended
27 to read as follows:

1 (a) The Contract Advisory Team is created to assist state
2 agencies in improving contract management practices by:

3 (1) reviewing and making recommendations on the
4 solicitation documents and contract documents for contracts of
5 state agencies that have a value of at least \$10 million;

6 (2) reviewing any findings or recommendations made by
7 the state auditor, including those made under Section [2262.052\(b\)](#),
8 regarding a state agency's compliance with the contract management
9 guide;

10 (3) providing recommendations to the comptroller
11 regarding:

12 (A) the development of the contract management
13 guide; and

14 (B) the training under Section [656.052](#)
15 [~~[2262.053](#)~~];

16 (4) providing recommendations and assistance to state
17 agency personnel throughout the contract management process;

18 (5) coordinating and consulting with the quality
19 assurance team established under Section [2054.158](#) on all contracts
20 relating to a major information resources project;

21 (6) developing and recommending policies and
22 procedures to improve state agency contract management practices;

23 (7) developing and recommending procedures to improve
24 state agency contracting practices by including consideration for
25 best value; and

26 (8) creating and periodically performing a risk
27 assessment to determine the appropriate level of management and

1 oversight of contracts by state agencies.

2 SECTION 6. (a) Not later than February 1, 2018, the
3 comptroller of public accounts shall adopt rules to implement
4 Section 656.051, Government Code, as transferred, redesignated,
5 and amended by this Act.

6 (b) Section 656.051, Government Code, as transferred,
7 redesignated, and amended by this Act, applies only to an
8 application for certification under that section that is submitted
9 on or after March 1, 2018. An application submitted before that
10 date is governed by the law in effect immediately before the
11 effective date of this Act, and the former law is continued in
12 effect for that purpose.

13 SECTION 7. This Act takes effect September 1, 2017.